

Joro Walker, USB #6676  
David Becker, USB #11037  
WESTERN RESOURCE ADVOCATES  
425 East 100 South  
Salt Lake City, Utah 84111  
Telephone: 801.487.9911  
Fax: 801.486.4233  
Attorneys for Utah Chapter of the Sierra Club  
and Grand Canyon Trust

## BEFORE THE UTAH AIR QUALITY BOARD

---

In Re: Approval Order – the Sevier	:	SIERRA CLUB AND
Power Company 270 MW Coal-Fired	:	GRAND CANYON TRUST’S
Power Plant, Sevier County	:	OPPOSITION TO PACIFICORP’S
Project Code: N2529-001	:	RENEWED PETITION TO
DAQE-AN2529001-04	:	INTERVENE IN THE SPC
		MATTER

---

The Utah Chapter of the Sierra Club and Grand Canyon Trust (collectively “Sierra Club”) hereby respectfully submits its Opposition to PacifiCorp’s Renewed Petition to Intervene in the Sevier Power Company (SPC) Matter. Sierra Club and PacifiCorp are currently trying to draft a mutually agreeable stipulation relative to Sierra Club’s response to PacifiCorp’s Petition. Because the rules are unclear about the calculation of time to respond to the Petition, Sierra Club submits the following limited Opposition.

If PacifiCorp will agree to the conditions described below, and PacifiCorp’s intervention is limited to the following two issues, then Sierra Club will **not** to oppose PacifiCorp’s Renewed Petition to Intervene in the Sevier Power Company matter currently before the Utah Air Quality Board (Board):

1. Utah Division of Air Quality/the Executive Secretary (DAQ) failed to address carbon dioxide and other greenhouse gas emissions in issuing the SPC PSD permit.
2. DAQ failed to consider adequately integrated gasification combined cycle (IGCC) in its BACT (Best Available Control Technology) determination for SPC facility.

If PacifiCorp agrees that it will not attempt to raise any issues and/or facts relevant only to the permit issued for New Unit 3 at Intermountain Power Generating Station in the

course of the SPC proceeding, and PacifiCorp agrees that it will confine itself to the facts and issues relevant to the SPC proceeding for the above two issues for which PacifiCorp seeks limited intervention in that proceeding, then Sierra Club will not oppose PacifiCorp's Renewed Petition to Intervene on these two issues.

However, if PacifiCorp intends by its renewed petition to intervene to raise issues and facts related to Intermountain Power Generating Station Unit 3 in the course of the SPC proceeding, PacifiCorp will in effect be seeking a consolidation of the two matters with respect to Unit 3 for the issues PacifiCorp identified in its renewed petition. PacifiCorp has indicated that it now holds a financial interest in Intermountain Power Service Corporation (IPSC), and as such it will have the opportunity to litigate these issues with respect to the New Unit 3 in the course of the IPSC permit proceedings. Sierra Club's challenges regarding greenhouse gas emissions and BACT in the SPC matter are specific to the facts involved in DAQ's decisions on the Approval Order for the SPC plant. In this event, Sierra Club opposes PacifiCorp's intervention in the SPC proceedings, because it will have ample opportunity to participate in the IPSC proceedings on account of its ownership interest in IPSC.

The Board's scheduling orders following the January 3, 2007 Board meeting show that it intends for the IPSC Unit 3 and SPC proceedings to run on concurrent – but not consolidated – schedules, allowing discovery, briefing and hearings to be staggered in the two matters, thereby avoiding undue burdens on the parties involved in both matters. In light of those scheduling orders, it would be improper for PacifiCorp to be allowed to litigate the factual issues related to Unit 3 in the course of the SPC matter if it is allowed to intervene in the latter matter.

PacifiCorp will have a full and fair opportunity to litigate factual issues related to IPSC Unit 3 in the course of the IPSC proceedings. Given that the Board intends discovery and the hearings to be staggered in the SPC and IPSC matters, PacifiCorp must not be allowed to force an acceleration of the discovery process in IPSC by requiring that discovery and briefing of the facts related to Unit 3 be conducted simultaneously with discovery related to SPC. Accordingly, Sierra Club's proposal that PacifiCorp's intervention be conditioned on PacifiCorp not raising any issues and/or facts relevant only to the permit issued for IPSC Unit 3 in the course of the SPC proceeding, and confining itself to the facts and issues relevant to the SPC proceeding, is reasonable, appropriate and consistent with the Board's scheduling orders in the two matters.

Sierra Club also opposes PacifiCorp's request to intervene on the issue that it described as "Appeal Point 2 (Supercritical PC Boiler as BACT)" in its Renewed Petition to Intervene, at page 2. This is because Sierra Club has not raised the issue of a supercritical pulverized coal boiler as BACT in its request for agency action related to SPC's proposed circulating fluidized bed plant. The issue of a supercritical boiler as BACT is not before the Board in the SPC case, and it is improper for an intervenor to request the Board to consider an issue that the parties filing the request for agency action have not raised in the SPC matter. PacifiCorp will have the opportunity to be involved in the determination of this issue in the IPSC matter by virtue of its financial interest in

IPSC. Sierra Club opposes PacifiCorp's intervention on this specific issue, even if the Board decides to allow PacifiCorp's limited intervention on the other two issues and on the conditions as described above.

Dated: January 12, 2007

/s/ David Becker  
JORO WALKER  
DAVID BECKER  
WESTERN RESOURCE ADVOCATES  
Attorneys for Utah Chapter of the  
Sierra Club and Grand Canyon Trust

## CERTIFICATE OF SERVICE

I hereby certify that on this 12<sup>th</sup> day of January 2007, I caused a copy of the foregoing Sierra Club and Grand Canyon Trust Opposition to PacifiCorp's Renewed Petition to Intervene in the Sevier Power Corporation Matter to be emailed to the following:

Christian C. Stephens  
Paul McConkie  
Attorney General's Office  
150 North 1950 West  
P.O. Box 144820  
Salt Lake City, UT 84114-4820

Fred Nelson  
Attorney General's Office  
160 East 300 South, 5<sup>th</sup> Floor  
P.O. box 140873  
Salt Lake City, UT 84114

E. Blaine Rawson  
George Haley  
Holme Roberts & Owen  
299 S. Main Street, #1800  
Salt Lake City, UT 84111

Fred W. Finlinson  
Finlinson & Finlinson, PLLC  
11955 West Fairfield Road  
Saratoga Springs, UT 84045

Martin K. Banks  
Richard R. Hall  
Stoel Rives  
201 South Main, Suite 1100  
Salt Lake City, UT 84111

/s/ David Becker